

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-48325
Issue No: 5100
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 16, 2010
Iosco County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on September 16, 2010. Claimant appeared and testified. During the hearing Claimant was continually argumentative and disruptive. Claimant was informed that the hearing would be terminated and a decision made on the record if he continued to disrupt the proceedings. Claimant did continue to disrupt and the hearing was terminated.

ISSUE

Did the Department of Human Services properly deny Claimant's June 11, 2010, State Emergency Relief (SER) application for emergency energy assistance?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On March 17, 2010, an SER application was approved for [REDACTED]. The application was for emergency energy services and there was a group of 10 on the application. Payment on this application exceeded the fiscal year cap.
- (2) On March 31, 2010, Claimant was authorized for SER relocation services.

- (3) On June 11, 2010, Claimant submitted an application for emergency energy assistance. The application was denied because the fiscal year service cap had been reached by SER benefit groups in which Claimant had been included. Claimant was sent a notice of the Department's determination.
- (4) On June 18, 2010, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

GROUP COMPOSITION

DEPARTMENT POLICY

Determine State Emergency Relief (SER) eligibility for the group as a whole. SER groups are the basic unit of SER eligibility. Verify income, assets and potential resources of all group members.

A single SER group consists of persons who occupy the same home. Home means the place where the members of the SER group keep their personal belongings and sleep. A home may be an apartment, a house, a mobile home, or a rented room. Consider a homeless family or group of individuals as a single SER group if they previously lived together in the same home and plan to do so again when they find permanent housing.

A number of SER services have a yearly or lifetime payment limit. This limit is referred to as a cap. All persons who are included in the SER group at the time of approval and who benefit from the payment will have that payment amount included in their individual cap. The cap payments are retained even if the individual moves from one group to another.

Included Group Members

Adults and dependent children who normally live together are in the same SER group. See ERG Glossary for a definition of dependent.

Persons temporarily absent due to illness or employment are also in the same group. For SER burials, the deceased person is an included group member; 18 to 21-year-old children of the deceased parents of the burial group are not.

Note: Group members who are absent from the home for 90 consecutive days or more are not in the SER group.

Note: All members must be included in Bridges.

Excluded Group Members

Do not include the following persons in the SER group.

- Visitors in the home who do not normally live with the SER group.
- Renters who live with the SER group, provided a fair market rental rate is paid. Include the rental income in determining the SER group's eligibility.
- The SER group's landlord, provided the group pays fair market rent to live in the home.
- A person physically present in the home who claims and verifies that they do not have any responsibility for meeting household emergencies. A person who desires exclusion on this basis has the burden of providing proof of the following:
 - The emergency does not adversely affect the person requesting exclusion.
 - The person will not benefit if the group's application for SER is approved.

Example: A group of five adults share an apartment. The group includes a husband and wife and three unrelated persons. The husband dies, and the wife applies for SER

burial assistance. Exclude the other three unrelated persons from the SER group for this service.

VERIFICATION REQUIREMENTS

Verify the SER group's payment of fair market rent by:

- Cancelled checks.
- Money order carbons.
- Landlord's federal or state tax return showing rental income. (ERM 201)

In this case Claimant was listed as a group member on a previous physical year emergency energy services application. The application was by [REDACTED] and Claimant testified that the [REDACTED] were his landlords and they all lived in the same home. Claimant described that he and his children lived on one level of the home and the [REDACTED] family lived on the other. Claimant also testified that [REDACTED] had filled out a shelter verification form for him and that his rent there included heat and utilities. Claimant asserts that he did not apply for the services received by the [REDACTED] he was not informed of the fact that he was included on the [REDACTED] application, and whatever assistance the [REDACTED] received should not be applied to his limit.

The Department has established that their action was in accordance with policy. The evidence in this record does not establish that Claimant should have been excluded from the [REDACTED] SER group. The policy above clearly states that Claimant has the burden of proving he should be excluded from the [REDACTED] group.

Department policy on requesting rehearing/reconsideration is included below. If Claimant has sufficient documentation to establish that he should have been excluded from the [REDACTED] group, he should request a rehearing/reconsideration based on newly discovered evidence.

HEARINGS

REHEARING/RECONSIDERATION

All Programs

A **rehearing** is a full hearing which is granted when:

- The original hearing record is inadequate for purposes of judicial review;

- There is newly discovered evidence that could affect the outcome of the original hearing decision.

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the issues.

Rehearing/Reconsideration Requests

All Programs

The department, AHR or, if none, the client may file a written request for rehearing/reconsideration. Request a rehearing/reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request. A written request from the local office for a rehearing/reconsideration must be sent to Income Support Programs (ISP) in central office for a recommendation. If ISP agrees with the local office, the request shall be made a part of the record. ISP will forward the request to all parties including; SOAHR, the client, AHR, and the requesting local office.

A written request made by the AHR or, if none, by the client, must be mailed to SOAHR. SOAHR will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR.
- AHR or, if none, the claimant request -- received anywhere in DHS. (BAM 600)

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's June 11, 2010 State Emergency Relief (SER) application for emergency energy assistance.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2010

Date Mailed: October 1, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

GFH/alc

cc:

